

STATE OF CALIFORNIA
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

In the matter of Licenses 13717, 13718 and 13719 (Application 26512)

Virginia Alley Rutt, Karl G. Rutt, Jr., and Marie Inez Peterson

**ORDER DIRECTING SPLITTING OF PERMIT INTO
SEPARATE PERMITS, REVOCATION OF ORIGINAL PERMIT,
AND ISSUANCE OF LICENSES**

SOURCE: Unnamed Spring and Donahue Flat Creek tributary to (1) an Unnamed Stream thence
Donahue Flat Creek thence (2) Klamath River

COUNTY: Humboldt

WHEREAS:

1. Permit 19077 was issued to Carl G. Rutt on December 23, 1983 and subsequently assigned to Virginia Alley Rutt on November 15, 1991. On January 21, 2000, Permit 19077 was assigned to Virginia Alley Rutt, Karl G. Rutt, Jr., and Maria Inez Peterson.
2. Requests for issuance of separate permits have been filed with the State Water Resources Control Board (State Water Board) staff on March 3, 2000 (Virginia Alley Rutt and Karl G. Rutt, Jr.) and February 10, 2000 (Maria Inez Peterson) and the State Water Board has determined that good cause for such change has been shown.
3. The State Water Board has determined that the amended permits do not constitute the initiation of a new right, or injure prior rights, or the public trust resources of the State.
4. The Division conducted a pre-license inspection of the project authorized by Permit 19077 on September 8, 1999. Based on the pre-license inspection Division of Water Rights (Division) staff has recommended licensing of this project.
5. Fish, wildlife and plant species have been or may be listed under the federal Endangered Species Act and/or the California Endangered Species Act. A term will be placed in the license making the licensee aware of possible obligations resulting from these acts.

NOW, THEREFORE, IT IS ORDERED THAT:

1. Permit 19077 is hereby replaced and superseded upon the issuance of Permit 19077A to Virginia Alley Rutt; Permit 19077B to Karl G. Rutt, Jr.; and Permit 19077C to Marie Inez Peterson.

2. Separate Permits be issued as follows:

- A.** Permit: 19077A (Application 26512A)
- Owner: Virginia Alley Rutt
- Source: Donahue Flat Creek tributary to
Klamath River in Humboldt County
- Use: Domestic
- Storage: None
- Amount: a) 4,350 gallons per day
b) 75 gallons per day
- Season: a) May 15 to September 30
b) October 1 to November 30
- Point of Diversion: North 3,700 feet and West 200 feet from the SE corner of
projected Section 5, T11N, R6E, HB&M, being within SE¼ of
NE¼ of said Section 5.
- Place of Use: NE¼ of SW¼ of projected Section 4, T11N, R6E, HB&M.
- B.** Permit: 19077B (Application 26512B)
- Owner: Karl G. Rutt, Jr.
- Source: (1) Unnamed Spring and (2) Donahue Flat Creek tributary to
(1) an Unnamed Stream thence Donahue Flat Creek thence
(2) Klamath River in Humboldt County
- Use: Domestic
- Storage: None
- Amount: a) 450 gallons per day
b) 75 gallons per day
- Season: a) May 15 to September 30
b) October 1 to May 14
- Point(s) of Diversion: 1) North 2,500 feet and East 1,200 feet from the SE corner of
projected Section 4, T11N, R6E, HB&M, being within NW¼ of
SW¼ of said Section 4.
2) North 3,700 feet and West 200 feet from the SE corner of
projected Section 5, T11N, R6E, HB&M, being within SE¼ of
NE¼ of said Section 5.
- Place of Use: NE¼ of SW¼ of projected Section 4, T11N, R6E, HB&M.

C. Permit: 19077C (Application 26512C)

Owner: Maria Inez Peterson

Source: (1) Unnamed Spring and (2) Donahue Flat Creek tributary to
(1) an Unnamed Stream thence Donahue Flat Creek thence
(2) Klamath River in Humboldt County.

Use: Domestic

Storage: None

Amount: a) 4,450 gallons per day
b) 300 gallons per day

Season: a) May 15 to September 30
b) October 1 to May 14

Point(s) of Diversion: 1) North 2,500 feet and East 1,200 feet from the SE corner of
projected Section 4, T11N, R6E, HB&M, being within NW¼ of
SW¼ of said Section 4.
2) North 3,700 feet and West 200 feet from the SE corner of
projected Section 5, T11N, R6E, HB&M, being within SE¼ of
NE¼ of said Section 5.

Place of Use: NE¼ of SW¼ of projected Section 4, T11N, R6W, HB&M.

3. Permit 19077 is hereby revoked.
4. Licenses are issued pursuant to Permit 19077A, 19077B and 19077C.
5. These licenses do not authorize any act which results in the taking of a threatened or endangered species or any act which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish and Game Code sections 2050 to 2097) or the federal Endangered Species Act (16 U.S.C.A. sections 5131 to 1544). If a "take" will result from any act authorized under this water right, the licensee shall obtain authorization for an incidental take prior to construction or operation of the project. Licensee shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this license.

STATE WATER RESOURCES CONTROL BOARD

ORIGINAL SIGNED BY: JWK
for: Victoria A. Whitney, Chief
Division of Water Rights

Dated: **AUG 22 2008**

STATE OF CALIFORNIA
~~THE RESOURCES AGENCY~~
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

PERMIT FOR DIVERSION AND USE OF WATER

PERMIT 19077

Application 26512 of Carl G. Rutt

P. O. Box 48, Orleans, California 95556

filed on August 29, 1980, has been approved by the State Water Resources Control Board SUBJECT TO VESTED RIGHTS and to the limitations and conditions of this Permit.

Permittee is hereby authorized to divert and use water as follows:

1. Source:

Tributary to:

(1) Unnamed Spring

Unnamed Stream thence

Donahue Flat Creek thence

Klamath River

(2) Donahue Flat Creek

Klamath River

2. Location of point of diversion:	40-acre subdivision of public land survey or projection thereof	Section	Town- ship	Range	Base and Meridian
(1) North 2,500 feet and East 1,200 feet from SW corner of Projected Section 4	NW $\frac{1}{4}$ of SW $\frac{1}{4}$	4	11N	6E	H
(2) North 4,000 feet and West 500 feet from SE corner of Projected Section 5	SE $\frac{1}{4}$ of NE $\frac{1}{4}$	5	11N	6E	H

County of Humboldt

3. Purpose of use:	4. Place of use:	Section	Town- ship	Range	Base and Meridian	Acres
Stockwatering						
Domestic						
Irrigation	NE $\frac{1}{4}$ of SW $\frac{1}{4}$	4	11N	6E	H	5

The place of use is shown on map filed with the State Water Resources Control Board.

5. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed (a) 0.05 cubic foot per second by direct diversion from May 15 to October 1 of each year for irrigation purposes; (b) 450 gallons per day by direct diversion from January 1 to December 31 of each year for domestic and stockwatering purposes. The maximum amount diverted under this permit for all uses shall not exceed 15.5 acre-feet per year.
6. The amount authorized for appropriation may be reduced in the license if investigation warrants.
7. Construction work shall be completed by December 1, 1986.
8. Complete application of the water to the authorized use shall be made by December 1, 1987.
9. Progress reports shall be submitted promptly by permittee when requested by the State Water Resources Control Board until license is issued.
10. Permittee shall allow representatives of the State Water Resources Control Board and other parties as may be authorized from time to time by said Board, reasonable access to project works to determine compliance with the terms of this permit.
11. Pursuant to California Water Code Sections 100 and 275, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.
- The continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to minimizing waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement such programs as (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.
12. The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the State Water Resources Control Board if, after notice to the permittee and an opportunity for hearing, the Board finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the Board finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges.
13. This permit shall not be construed as conferring upon the permittee right of access to the point of diversion.

Application 26512

Permit 19077

14. The equivalent of the continuous flow allowance for any 30-day period may be diverted in a shorter time, provided there be no interference with other vested rights and instream beneficial uses; and provided further that all terms or conditions protecting instream beneficial uses be observed.

This permit is issued and permittee takes it subject to the following provisions of the Water Code:

Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.

Section 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.

Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Dated: DECEMBER 23 1983

STATE WATER RESOURCES CONTROL BOARD

Raymond Walsh